

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 120\*

Short Title: Medical Malpractice Arbitration Study.

(Public)

Sponsors: Representatives Robinson; and Gamble.

Referred to: Rules.

February 21, 1991

A BILL TO BE ENTITLED

AN ACT TO REESTABLISH THE MEDICAL MALPRACTICE CLAIMS  
ARBITRATION STUDY COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. The Medical Malpractice Arbitration Study Commission is hereby  
recreated. The Commission shall consist of 13 members who shall be appointed as  
follows:

- (1) Five members appointed by the Speaker of the House of Representatives as follows:
  - a. Three persons who are members of the House of Representatives at the time of their appointment, one of whom shall be a licensed attorney regularly representing plaintiffs or a member of a firm that regularly represents plaintiffs, and one of whom shall be a licensed attorney regularly representing defendants or a member of a firm that regularly represents defendants;
  - b. One physician licensed to practice medicine in North Carolina; and
  - c. One at-large member representing the general public;

- (2) Five members appointed by the President Pro Tempore of the Senate as follows:

- a. Three persons who are members of the Senate at the time of their appointment, one of whom shall be a licensed attorney regularly representing plaintiffs or a member of a firm which

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- 1 regularly represents plaintiffs, and one of whom shall be a  
2 licensed attorney regularly representing defendants or a member  
3 of a firm which regularly represents defendants;
- 4 b. One physician licensed to practice medicine in North Carolina;  
5 and
- 6 c. One at-large member representing the general public;
- 7 (3) The Chief Justice of the Supreme Court of North Carolina or his  
8 designee;
- 9 (4) The Chief Judge of the North Carolina Court of Appeals or his  
10 designee; and
- 11 (5) The Attorney General of North Carolina or his designee.

12 If a vacancy occurs in the membership, the appointing authority shall appoint  
13 another person to serve the balance of the unexpired term in the same manner in which  
14 the original appointment was made.

15 Sec. 2. The President Pro Tempore of the Senate shall designate one Senator  
16 as cochairman, and the Speaker of the House of Representatives shall designate one  
17 member of the House of Representatives as cochairman. The cochairmen shall jointly  
18 call the first meeting.

19 Sec. 3. The Commission shall study the use of court-annexed arbitration in  
20 medical malpractice actions, as described in G.S. 90-21.12, and as a part of its study, the  
21 Commission may also consider studies by the American Medical Association, the North  
22 Carolina Bar Association Dispute Resolution Committee, and the Duke University  
23 Private Adjudication Center, regarding alternate forms of dispute resolution in  
24 mediation, conciliation, and other forms of alternate dispute resolution, which might  
25 lead to a more expeditious and more economical determination of issues arising in a  
26 medical malpractice action than the present system of discovery and jury trial, which  
27 has been found to be very time consuming and expensive. The Commission is  
28 specifically empowered to study arbitration and other alternate dispute resolution forms  
29 which have been implemented or are being considered for implementation in other  
30 states of the United States.

31 Sec. 4. The Commission shall submit a final report of its findings and  
32 recommendations to the General Assembly on or before the first day of the 1993  
33 Session of the General Assembly by filing the report with the President Pro Tempore of  
34 the Senate and the Speaker of the House of Representatives. The Commission may, but  
35 is not required to, file its report on or before the first day of the 1992 Budget Session of  
36 the 1991 General Assembly, if it can complete its work and adopt a report requiring  
37 filing on or before such date. Upon filing its final report, the Commission shall  
38 terminate.

39 Sec. 5. The Commission may meet at any time upon the joint call of the  
40 cochairmen. The Commission, with the approval of the Legislative Services  
41 Commission, may meet in the Legislative Building or the Legislative Office Building.

42 Sec. 6. The Commission may contract for professional, clerical, or consultant  
43 services as provided by G.S. 120-32.02. The Legislative Services Commission, through  
44 the Legislative Administrative Officer, may assign professional staff to assist in the

1 work of the Commission. The House of Representatives' and the Senate's Supervisors  
2 of Clerks shall assign clerical staff to the Commission, upon the direction of the  
3 Legislative Services Commission. The expenses relating to clerical employees shall be  
4 borne by the Commission.

5           Sec. 7. All State departments and agencies shall furnish the Commission with  
6 any information in their possession or available to them.

7           Sec. 8. The Commission shall have all powers necessary or convenient to  
8 carry out the purposes and provisions of this act, including, but not limited to, the power  
9 to receive and accept grants or funds from any public or private agency for, or in the aid  
10 of, the purposes of this section, and to receive or accept contributions, from any source,  
11 of money, or labor, to be held, used, and applied for the purposes of this act. Any grants  
12 or contributions received shall be held by the Legislative Services Commission and  
13 these monies received shall be used prior to the use of any available State funds. If  
14 grants or contributions are received thereafter, they shall be retained by the Legislative  
15 Services Commission in amount equal to State funds already expended.

16           Sec. 9. There is allocated from the funds appropriated to the General  
17 Assembly to the Commission created by this Part for its work the sum of \$25,000 for  
18 the 1991-92 fiscal year and the sum of \$25,000 for the 1992-93 fiscal year.

19           Sec. 10. This act is effective upon ratification.